

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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TYLER ERDMAN,

*Plaintiff,*

against

ADAM VICTOR,

*Defendant.*

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Case No.: 1:20-cv-04162  
(LGS)(GWG)

**AFFIDAVIT**

STATE OF NEW YORK

ss:

COUNTY OF KINGS

Alfred Polizzotto, III, being duly sworn, hereby deposes and says:

1. I am counsel for the Defendant in the abovementioned action and make this Affidavit as required by the Order of the Court dated October 18, 2024 (Dkt #300).

2. In the Court Order dated October 2, 2024, a request for an extension of the discovery deadlines for the production of emails (and any privilege log) was to be accompanied by a detailed day-to-day recitation on the number of hours spent on review from September 27, 2024 to the date of the request.

3. The following recitation sets forth the daily time spend on the production of emails since September 27, 2024:

- a. 9/28/2024 - I had telephone conference with Adam Victor regarding the inability to export e-mails using a method with "Google Takeout" so as to

export emails to the third-party discovery company engaged known as Logikcull. I attempted to walk through the process with the client but errors were encountered and no e-mails were able to be exported at this time. Time spent - 1.80 hours.

- b. 10/1/2024 - I had a telephone conference with Percipient, another third-party discovery company recommended by Logikcull to facilitate the exporting of e-mails. The company gave additional instructions regarding the use of "tokens" to be used to export e-mails. These tokens were to be installed by Adam Victor at which point Percipient could access the e-mails and import them into Logikcull. A discussion was had regarding turn around time for this task by Percipient and I was told that there would be a few day turn around time from token installation. Time Spent 1.2 hours
- c. 10/2/2024 - I reviewed the token installation with Adam Victor. I was informed by Mr. Victor that he had again encountered installation errors on all accounts. Time Spent 0.80 hours
- d. 10/3/2024 - Percipient was engaged to directly interface with the client to facilitate the token installation and transfer of the e-mail accounts. I spoke with Adam Victor during the transfer during the download/access by Percipient. Time Spent 0.50 hours.
- e. 10/3/2024 - I spoke with and emailed the Percipient representative regarding confirmation of certain passwords for e-mail accounts for which

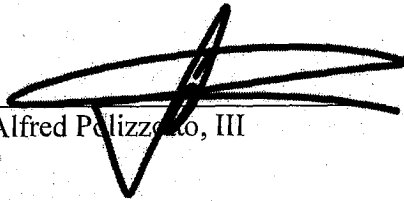
token passwords were generated. Time Spent 0.40 hours

- f. 10/4/2024 - I emailed Percipient seeking confirmation of uploads and a timetable on transfer to Logikcull platform - Time Spent 0.20 hours.
- g. 10/11/2024 – I reviewed an email from Percipient confirming upload of data following access of client's email accounts - Time Spent 0.20 hours.
- h. 10/16/2024 Review of invoice and payment of \$3,050.00 invoice for upload of data as requested. A copy of the invoice paid is attached hereto as Exhibit "A".

4. The Court indicated in a footnote that any request for an extension of time beyond October 17, 2024 was to be included with an sworn statement such as the one set forth herein. This procedure was admittedly not followed and was an oversight. I apologize to the Court for this error and state that it was not done with any mal intent or deliberate attempt to disrespect the Court or its procedures.

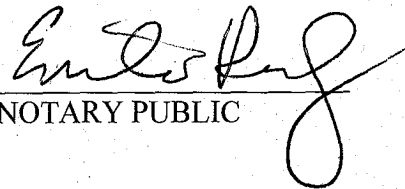
5. It can be seen from the above time entries together with the efforts of Emilio Rodriguez submitted in a separate affidavit that my firm has been diligently attempting to comply with the deadlines set by the Court and have not sat back idly. I have expended over \$3,050.00 in direct costs to Percipient and will be expending additional fees (likely to exceed several hundred dollars per month) beginning the first of the month for hosting the information exported into Logikcull to provide the discovery ordered by the Court. It is humbly submitted to this Court that the direct costs expended to date (and future expenditures) combined with the indirect costs of the time expended are a sufficient impetus to have the discovery completed as quickly as possible without having sanctions imposed by

this Court.



Alfred Polizzotto, III

Sworn to before me on  
October 21, 2024



NOTARY PUBLIC

EMILIO RODRIGUEZ  
Notary Public, State of New York  
Registration No. 02RO6321688  
Qualified in Queens County  
Commission Expires 7/30/27